

REVISED CLAIMS

Version with markings to show changes made.

1. A photographic system, comprising:
an inflatable structure adapted to provide a uniform background of a chroma key color
for photographing a subject inside the structure, wherein the structure is
sufficiently translucent such that visible light waves from outside the structure
are transmitted into the structure in order to illuminate the inside of the
structure.
10. ~~The system of claim 1, wherein the uniform background is substantially colored a
chroma key color.~~
11. The system of claim ~~[[10]]~~1, wherein the chroma key color is blue.
12. The system of claim ~~[[10]]~~1, wherein the chroma key color is green.
20. A photographic method, comprising:
providing an inflatable structure having a uniform background of a chroma key color;
photographing a subject inside the inflatable structure; and
lighting the inside of the structure with visible light waves emanating from outside the
structure.

Riordan (US Patent 4,103,369)

The Office considers claims 1-3, 5, 10, 11, 14-21 and 23 to be anticipated by Riordan.
The applicant disagrees, especially in view of the amendments herein.

Riordan fails to disclose “a uniform background of a chroma key color” as
independent claims 1 and 19 require. The examiner has correctly pointed out that Riordan
teaches a structure with a nylon material of a blue color but this is not the equivalent of a
chroma key color. A chroma key color is a color that is “suitable for use in a background
replacement method” (specification, page 4, first full paragraph). Such methods look at the
luminescence of a particular color and everything over (or under) a set brightness level is

keyed out and replaced by another image. Merriam-Webster Online defines “chroma” as “a quality of color combining hue and saturation”. Wordsmyth online defines it as “the purity or degree of saturation of a color”. Thus, it should be understood that a chroma key color is something more than a mere color as Riordan describes. A chroma key color is a color that has the particular qualities that enable it to be used in a background replacement method.

While it is true that Riordan teaches a blue background and that blue may be a chroma key color, blue is not necessarily a chroma key color. Certain blues lack the proper characteristics to be defined as a chroma key color. The applicant would like to point out that just because Riordan teaches a blue color does not mean that a chroma key color is inherent in Riordan. To establish inherency, the evidence “must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill...The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999).

Based on the failure of Riordan to disclose “a uniform background of a chroma key color”, claims 1 and 19 and their dependents are novel over Riordan.

Leary (US Patent 6,061,969)

The Office considers claims 1-3, 5-8, 10, 14-21, and 23 to be anticipated by Leary. The applicant disagrees, especially in view of the amendments herein.

Leary also fails to disclose “a uniform background of a chroma key color”. The examiner effectively admits that Leary does not expressly disclose a chroma key color (“although Leary is not concerned with chroma key color”) but apparently he or she considers a chroma key color to be inherent in the Leary specification (“any color can be used as a chroma key color”). If the examiner were correct, then any specification that discusses a color or a tint could be considered to disclose a chroma key color. That is simply not correct. Either a chroma key color is disclosed expressly, which admittedly it is not, or it is disclosed inherently. As the applicant pointed out above, inherency requires that the element be necessarily present. Even if Leary stated that the background could be tinted, this hardly

10/568656

IAP20 PROSECUTING 18 FEB 2006

shows that a chroma key color is "necessarily present". At most, it would suggest that a chroma key color *may* be present, but *may* or *can* is not enough for a showing of inherency.

Conclusion

Neither Riordan nor Leary discloses a background of a chroma key color. "Chroma key color" has a specific meaning in the art which is not subsumed in a specification that mentions a color or a tint. The applicant, therefore, submits that all claims are in condition for allowance.

Respectfully submitted,

Rutan & Tucker, LLP

Dated: April 8, 2005

By:



Robert D. Fish
Reg. No. 33,880

Attorneys for Applicant(s)
Post Office Box 1950
Costa Mesa, CA 92628-1950
Tel: (714) 641-5100
Fax: (714) 546-9035